

Translation

PATENT COOPERATION TREATY PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference R 43129	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/AT2004/000107	International filing date (<i>day/month/year</i>) 23.03.2004	Priority date (<i>day/month/year</i>) 28.03.2003
International Patent Classification (IPC) or national classification and IPC 		
Applicant HASLAUER, Paul		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 10 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																									
<p>4. This report contains indications relating to the following items:</p> <table style="margin-left: 20px; border-collapse: collapse;"> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>		<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/AT2004/000107

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

- international search (Rule 12.3 and 23.1(b))
- publication of the international application (Rule 12.4)
- international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished
 the description:

pages 1-8 as originally filed/furnished

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

the claims:

nos. _____ as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19

nos.* 7, 8 received by this Authority on 16.08.2004 with the letter of 12.08.2004

nos.* 1-6 received by this Authority on 24.05.2005 with the letter of 18.05.2005

the drawings:

sheets _____ as originally filed/furnished

sheets* 1/8-8/8 received by this Authority on 24.05.2005 with the letter of 18.05.2005

sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. 9, 10
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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1. Statement

Novelty (N)	Claims	1 - 8	YES
	Claims		NO
Inventive step (IS)	Claims	1 - 8	YES
	Claims		NO
Industrial applicability (IA)	Claims	1 - 8	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)**I. Documents**

This report makes reference to the following documents:

D1: DE 199 30 652 A
 D2: DE 25 15 188 A
 D3: EP-A-0 779 067
 D4: DE 196 45 077 C
 D5: EP-A-0 943 308

II. Requirements for novelty and inventive step (PCT Article 33(2) and (3))

1. D1, which is considered to represent the closest prior art, discloses (see the sole drawing) (the references in parentheses are to this document):

a process for operating a warm or hot air cabin (1) using a coolant (in the form of water, which is vaporized; cf. the heat of vaporization required) to stimulate the human body ("infusions" with water also serve this purpose).

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Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

The stimulating effects are intensified by circulating the warm or hot air in the cabin at ceiling level, calming the air at intervals and introducing the coolant into the flow of warm or hot air at ceiling level. Although D3 discloses circulation at ceiling level with periodic calming, even a combination of the teachings of D1 and D3 does not yield the process according to the invention.

Consequently, the subject matter of **claim 1** is both novel (PCT Article 33(2)) and meets the PCT requirements for inventive step (PCT Article 33(3)).

2. D1 discloses (see the sole drawing) (the references in parentheses are to this document):

a warm air cabin (1) wherein, in addition to conventional heating and air-circulating devices (2, 3), a device (in the form of a water tank (12)) for supplying coolants (in the form of water) is provided.

To convert a warm air cabin of this type so that it is suitable for carrying out a process such as that defined in claim 1 of the present application, the following would be required (see also the observations below):

the air-circulating device should be arranged at ceiling level, the device for supplying coolants

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should be arranged at ceiling level in the vicinity of the air-circulating device and a device designed such that the circulation of warm or hot air at ceiling level is periodically interrupted and the coolant introduced into the flow of warm or hot air should be provided. Since the prior art contains no suggestion that could induce a person skilled in the art to convert the warm air cabin known from D1 in this way, the subject matter of independent **device claim 3** likewise meets the requirements for novelty and inventive step as per PCT Article 33(2) and (3).

Observations:

- a) The wording in independent device claim 3 "... for carrying out the process according to claim 1" should only be construed to mean that the warm air cabin is suitable for the intended use (see PCT International Search and Preliminary Examination Guidelines, paragraph 5.23). However, this statement of use does not explicitly define any structural features and, contrary to the requirement for clarity as per PCT Article 6, it is unclear which structural features of the device are implied.
- b) Claim 3 is further unclear (PCT Article 6) in that, although it is an independent claim, it does not contain all the technical features necessary for the definition of the invention. In particular, the structural features required in order to control the warm air cabin such that the circulation of warm or hot air at ceiling level is

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periodically interrupted and that the coolant is introduced into the flow of warm or hot air are absent.

c) It is unclear (PCT Article 6) which structural features are meant by "conventional heating and air-circulating devices".

3. Claims 2 and 4-8 are dependent on claims 1 and 3, respectively, and therefore likewise meet the PCT requirements for novelty and inventive step.

Observation:

It is assumed that "switching off", not "switching on", is meant in the last line of claim 2.

III. Instruction

The application does not meet the requirements of PCT Rule 11.13(1) and (m). Several reference signs used in figures 6-9, 11 and 12 are inconsistent with the description and the reference sign 5' used in the claims and the description does not appear in the drawings (cf. for example, claims 4 and 5 and the description, page 3, paragraph 2).